

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Administration of the
North American Numbering Plan

)
) CC Docket No. 92-237
) Phases One and Two
)

To: The Commission

COMMENTS OF VANGUARD CELLULAR SYSTEMS, INC.

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TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	ii
I. Introduction	1
II. The Commission Should Adopt an Administrative Structure that Assures Neutrality and Independence for All Numbering Assignment Functions	3
A. The Current Numbering Administration Does Not Adequately Address the Interests of All Parties with an Interest in Telephone Numbering	3
B. The Commission Should Require Centralized, Independent Administration of All Numbering Resources	6
III. Numbering Policy Should Be Set by a Single Organization Open to All Stakeholders	8
A. Numbering Policy Should Be Consolidated into a Single Organization	8
B. The Numbering Policy Organization Should Maintain Appropriate Independence	9
IV. The FCC Should Adopt a Funding Mechanism that Fairly Apportions the Costs of Numbering Activities Among Users of Numbering Resources	12
V. Conclusion	14

SUMMARY

The Commission's efforts to reform the administration of telephone numbering are vital to the entire telecommunications industry. Telephone numbering is increasingly important to the development and growth of new telecommunications services. Absent Commission intervention, telephone number administration could become a bottleneck that hinders the growth of these valuable sectors of the industry.

Vanguard's model for numbering administration has three parts. The most important step the Commission can take in this proceeding is to require administration of all numbering resources to be centralized in a single independent body. Such a framework would be administratively efficient and would remove local exchange carriers, which have built-in biases, from the process of assigning NXX codes or other numbering resources.

Next, the Commission should create a numbering policy organization, independent and open to all parties with legitimate interests in numbering. It has become evident in recent years that the ministerial functions of number allocation and assignment are only one part of an overall puzzle of telephone numbering, so a separate policy group is necessary. The policy organization would guide the numbering administrator and would be subject to Commission oversight.

Third, the costs of numbering functions should be funded by assessments on service providers using numbering resources. These costs should not be very large, so the burden of the assessments would not be great. Numbering costs are best allocated in proportion to a provider's use of numbering resources.

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COMMENTS OF VANGUARD CELLULAR SYSTEMS, INC.

Vanguard Cellular Systems, Inc. ("Vanguard"), by its attorneys, hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-referenced matter.^{1/} Vanguard supports efforts to create an independent, centralized structure for administration of telephone numbering in the United States and the rest of the North American Numbering Plan area. This structure should include a body that is intended to resolve numbering policy issues as well as a ministerial administrative organ, and can be funded through modest charges to users of numbering resources.

I. Introduction

Vanguard is a major, nonwireline cellular carrier whose involvement in this mobile communications sector began in 1984. Currently, Vanguard operates 22 cellular systems in the eastern parts of the United States serving more than 175,000 subscribers. The Vanguard systems incorporate approximately 145 fully-constructed cell sites supported by extensive microwave backbones. Having experienced

^{1/} Administration of the North American Numbering Plan, *Notice of Proposed Rulemaking*, CC Docket No. 92-237, Phases One and Two, rel. Apr. 4, 1994 (the "Notice").

considerable growth over the years, Vanguard is one of the twenty largest cellular carriers in the country and continues to grow at an annual rate in excess of 35 percent.

With more than 175,000 customers, Vanguard is now a major user of telephone numbering resources, and it expects to continue to expand its use of numbering resources as its customer base and the range of services it offers to those customers grow. The impartial administration of numbering resources is therefore vital to Vanguard, which has experienced adverse business consequences because of unfair treatment by local numbering administrators. For this reason, Vanguard strongly supports an independent, centralized numbering administration structure.

Vanguard's model for numbering administration has three parts. First, the Commission should require all administration of assignment of numbering resources to be centralized in a single independent body. Such a framework would be administratively efficient and will remove local exchange carriers ("LECs"), which have built-in biases, from the process of assigning NXX codes or other numbering resources. Second, the Commission should establish a numbering policy organization, independent and open to all parties with legitimate interests in numbering. The policy organization would provide guidance to the numbering administration and would be subject to the Commission's oversight. Third, these numbering functions should be funded by assessments on parties using numbering resources, and the assessments should be based on the quantities of numbering resources used by affected parties.

II. The Commission Should Adopt an Administrative Structure that Assures Neutrality and Independence for All Numbering Assignment Functions.

The most important step that the Commission can take in this proceeding is to place administration of all numbering resources into neutral hands. While the old North American Numbering Plan Administration served well when the telephone industry was a monolithic enterprise, numbering administration no longer can be tied to particular industry interests in today's diverse telecommunications environment. Centralized numbering administration should be responsible both for national resources, such as area codes, and for assignment of local resources such as central office codes, which have raised significant issues in recent years. The numbering administration body should make numbering assignments according to policies adopted by a separate numbering policy group, which is described in Part III of these comments.

A. The Current Numbering Administration Does Not Adequately Address the Interests of All Parties with an Interest in Telephone Numbering.

The dominant fact of the telecommunications industry today is that it is becoming more and more diverse, with competing sets of interests. While in the 1960s telephone numbering may have been the preserve of landline telephone companies, and particularly of AT&T, today local exchange carriers ("LECs"), cellular carriers, paging carriers, interexchange carriers, enhanced SMR providers and information services providers, among others, have interests in telephone numbering. The advent of PCS and mobile satellite services will greatly increase the number of

parties with interests in telephone numbering, as will new technologies that emerge in the future.

Unfortunately, current numbering administration arrangements put too much power in the hands of one group of interested parties, the LECs. Bellcore, which administers national aspects of numbering, such as area code assignments, is controlled by the Bell Operating Companies. At the same time, under current practices, the responsibility for local numbering administration, such as assignment of NXX codes, belongs to the dominant LEC in each state.

Concerns about bias at the North American Numbering Plan Administration have been described to the Commission at length in the past. *See, e.g.,* Comments of Vanguard, CC Dkt. 92-237, Dec. 28, 1992, at 3 (describing response to request by CTIA for numbering resources). *See also* Comments of CTIA, Comments of Cox Enterprises, Inc. In fact, the cellular industry's experience is that until recently Bellcore's numbering administrators generally ignored or discounted cellular needs and perspectives while fully accommodating landline carriers' desires.

Ironically, an outgrowth of these legitimate concerns about bias is that Bellcore's numbering administrators are now hesitant to make any judgment calls at all, for fear of being accused of bias. An example is Bellcore's decision to open up the 500 service access code in the summer of 1993. Bellcore made no apparent effort to assess the actual needs of the companies that requested that the code be opened up, but accepted their assertion that there was an "urgent" need for 500 numbers. While Vanguard believes, and indeed has publicly stated, that it is appropriate to make 500

numbers available for personal communications services on an expeditious schedule, Bellcore's failure to exercise independent judgment in this matter is disturbing. Bellcore has been similarly disinclined to make decisions on its own in other areas over the past year, including the assignment of 800-855 numbers.

At the same time, dominant LECs administering local numbering resources such as NXX codes have demonstrated a lack of impartiality as well. The experience of the cellular industry generally, and of Vanguard in particular, illustrates this problem. The Commission's cellular interconnection orders recite the overall difficulty that cellular carriers have had in obtaining the NXX codes they need to provide service to their customers.^{2/}

Despite the recent adoption of central office code assignment guidelines intended to eliminate bias and unfair treatment, these problems persist. For instance, Vanguard's New England system cluster has come close to running out of numbers because New England Telephone has been uncooperative in making numbers available in a timely way. Vanguard understands that some companies have been denied access to full NXX codes, a practice discouraged by the central office code assignment guidelines. Certain LECs have been unresponsive and inflexible when unanticipated demand for cellular service has caused number shortages in Vanguard's cellular systems. Vanguard believes it is likely that these experiences reflect an inherent prejudice within New England Telephone and other LECs against competing carriers,

^{2/} See *The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, 2 FCC Rcd 2910 (1987), *recon.* 4 FCC Rcd 2369 (1989) ("Cellular Interconnection Orders").

and it is unlikely that there is anything the Commission could do to eliminate that prejudice from dominant carriers now permitted to assign local numbering resources.

Finally, the current numbering structure makes it difficult to assess the costs of numbering administration. As the Commission's deliberations on these issues have shown, there is little or no information available on the actual cost of numbering functions. The lack of information makes it likely that some users of numbering resources, notably cellular and paging carriers, are overcharged for their use of those resources, while others, especially landline local exchange carriers, are undercharged. In the past, LECs have claimed that they subsidize telephone numbering activities, but there has never been any meaningful accounting to support that claim. It is considerably more likely that the legitimate costs of numbering are more than recovered from the charges imposed on non-LEC users of numbering resources.

B. The Commission Should Require Centralized, Independent Administration of All Numbering Resources.

The solution to the problems of the current numbering administration structure is to create a new numbering administrator, independent of any industry stakeholder and with the power to administer all widely-used numbering resources. Centralization of numbering administration in an independent body will have significant benefits for the telecommunications industry and the public, as well.

First, centralization will assure uniformity in the numbering assignment process. For instance, even after the adoption of the central office code guidelines, individual local numbering administrators have significant discretion to make decisions about NXX code assignments, and this discretion can lead to results that

vary from state to state and even from requester to requester within one state. This is true of other numbering resources as well, including vertical services codes and, potentially, abbreviated dialing arrangements. Centralized administration will greatly increase the likelihood of consistent decisions about the use of numbering resources.

Second, administration by an independent body is necessary to eliminate both bias and the perception of bias in the process of numbering administration. Most participants in the telecommunications industry are suspicious of any numbering administration undertaken by interested parties, especially LECs, and in many cases there are good reasons for those suspicions. If numbering assignments are administered by a truly independent entity, the Commission will have gone a long way towards eliminating the current perception of bias.

Finally, centralizing numbering administration in an independent organization will make it much simpler to ascertain and assess the costs of numbering administration. A centralized organization can determine the specific costs associated with numbering with precision, and can be required to operate within a specified budget. The Commission could solicit bids for numbering administration to assure that the costs will be known before they are assessed to users of numbering resources. It also is likely that centralization of functions such as assignment of NXX codes will increase the efficiency of such assignments, to the benefit of all users of numbering resources. When fiscal benefits are considered together with the other advantages of centralized numbering assignment, it is clear that centralized administration of numbering resources will be beneficial.

III. Numbering Policy Should Be Set by a Single Organization Open to All Stakeholders.

Neutral administration of numbering resources is essential, but in recent years it has become evident that the ministerial functions of number allocation and assignment are only one part of an overall puzzle of telephone numbering. The administrator should implement, but not set, numbering policy. Numbering policy should be the responsibility of a separate organization in which all stakeholders can participate, subject to Commission oversight.

A. Numbering Policy Should Be Consolidated into a Single Organization.

At present, there is no single body responsible for numbering policy in the North American Numbering Plan area. While the telephone industry consolidated many numbering policy matters within the Industry Numbering Committee (the "INC") in the fall of 1993, many related matters still are being considered in other industry forums. For instance, the Information Industry Liaison Committee (the "IILC") recently completed consideration of potential abbreviated dialing arrangements, and the Industry Carriers Compatibility Forum (the "ICCF") and the Wireless Interconnection and Numbering Committee, among others, are considering other numbering issues. This dispersion of numbering policy considerations among various industry forums makes it difficult for all but the largest companies to keep track of pending numbering issues, let alone participate in various matters of interest.

Consolidation will help to solve this problem, and many others as well. Consolidating all numbering issues in one responsible organization will expedite many

issues because they will be considered just once, rather than in one forum after another. For example, questions about abbreviated dialing, having already been considered at the IILC, now are before the INC. Many other issues also work their way through more than one forum before reaching final resolution.

Because the value of consolidating numbering issues depends on combining **all** issues in a single forum, it is important to assure that the policy organization has authority over **all** numbering-related matters. These matters include the rules governing area code splits and overlays, vertical service codes and dialing plans. As the telecommunications industry moves into the future, the numbering policy organization also should have responsibility for considering issues regarding the evolution of one-person, one-number services.

B. The Numbering Policy Organization Should Maintain Appropriate Independence.

If all participants in the telecommunications industry are to view the numbering policy organization's decisions as fair, and therefore legitimate, that organization must maintain independence from any one sector of the industry. Similarly, participants in numbering policy deliberations must know there is an avenue for reconsideration or appeal of decisions they believe are ill-conceived. Consequently, Vanguard supports creation of a policy body that is independent from other industry groups, open to all legitimate stakeholders and subject to oversight by the Commission and other appropriate regulatory bodies.

Independence from other industry groups is crucial to the legitimacy of the numbering policy organization. Suspicions about bias in numbering policy

decisions in the past stemmed from the close connection between numbering administration and the traditional landline telephone industry. As described above, Vanguard believes that there were good reasons for suspicion, but the perception of bias had a significant effect in and of itself. This was reflected in the comments on the original *Notice of Inquiry* in this proceeding, in which LECs were almost uniformly supportive of Bellcore's administration of numbering, while all other parties were critical.

The INC suffers from some of the same flaws. The INC is a part of the Alliance for Telecommunications Industry Solutions ("ATIS"), a group originated by the traditional telephone industry. While ATIS recently changed its charter and its name to reflect an effort to become more inclusive, it remains a group identified with and dominated by traditional telephone companies. While Vanguard sees the INC as a significant improvement over the previous approaches to numbering policy, the link to ATIS nevertheless makes it clear that the INC is not the kind of independent body that should be making numbering policy.^{3/} A truly separate numbering policy organization would reduce the likelihood that either bias or a perception of bias would arise.

While the numbering policy organization should be outside the control of ATIS and other industry groups, that does not mean it should sever all relationship with those groups. It is important to maintain formal liaisons with other telephone industry groups that consider matters that may affect numbering. The groups that

^{3/} In fact, the INC is only a standing committee of the ICCF, and INC decisions must be ratified by the ICCF before they become final.

should have liaisons with the new numbering policy organization would include the IILC, the ICCF and the Wireless Interconnection Forum. The numbering policy organization also should maintain contact with the various international groups, including committees of ITU-T, that consider international numbering issues.^{4/}

Participation in the numbering policy organization should be open to all legitimate parties with an interest in numbering issues. The Commission should make efforts to assure that all groups with such interests are represented in the policy organization.^{5/} The Commission also should work to assure that the parties participating in the numbering policy body have legitimate interests in numbering issues, and are not there simply to obstruct parties with current concerns from having those concerns addressed. This has not been a significant problem to date, but as numbering becomes more important, it is likely that a numbering policy body will be seen as a forum to delay progress as much as a place to resolve numbering problems.

Finally, the Commission should retain explicit jurisdiction over the actions of the numbering policy body.^{6/} Many numbering policy decisions will have

^{4/} The international liaison functions are poorly defined today. For instance, the ICCF is considering certain issues relating to international freephone service, even though the ICCF formally delegated all numbering issues to the INC.

^{5/} One problem facing the INC today is that some groups are underrepresented in INC deliberations on certain issues. While the INC is theoretically open to all, in practice parties are not always fully represented on issues of importance to them.

^{6/} Vanguard recognizes that the Commission would have jurisdiction over policy actions only as they affect telecommunications services in the United States. Vanguard expects that Canada and the other countries within the North American Numbering Plan would exert jurisdiction over actions in their countries in a similar fashion.

a profound impact on the development of the telecommunications industry in the United States and throughout the rest of the North American Numbering Plan area. Commission oversight of these decisions is crucial, both to provide dissatisfied parties with an avenue for relief from improper actions and to discourage parties that might wish to obstruct the numbering policy process or to advance agendas that would harm the public interest. Without Commission oversight, the likelihood of bad decision-making or obstruction of the process would greatly increase.

IV. The FCC Should Adopt a Funding Mechanism that Fairly Apportions the Costs of Numbering Activities Among Users of Numbering Resources.

After the structure of numbering administration is determined, one question that remains is how the costs of administering telephone numbering will be recovered. This should not, however, be a difficult issue to address or resolve. The relative costs of numbering administration are fairly low, and can be recovered from the entities that use numbering resources based on their proportionate use of those resources.

As a practical matter, numbering activities are not that expensive to administer. North American Numbering Plan Administration today administers area codes, 800 numbers, 900 numbers, carrier identification codes and vertical services codes and operates the Central Office Code Utilization Survey. It performs these functions with approximately half a dozen people. Similarly, administration of NXX codes does not appear to be a particularly burdensome task, especially because it should be almost entirely ministerial in nature. For that matter, North American

Numbering Plan Administration already records much of the information necessary to administer NXX codes. While an independent, consolidated administrator for all numbering resources undoubtedly would need more employees than the current North American Numbering Plan staff, it is unlikely that there would be a need for a very large staff for this purpose. Thus, the costs of number administration should be relatively modest.

Regardless of the actual amounts involved, it is important that the costs of numbering administration be allocated fairly among the users of numbering resources, *i.e.*, the providers of telecommunications services which require numbers to serve their customers. These users of numbering resources include LECs, cellular carriers, paging carriers, interexchange carriers providing 700, 800 and 900 services, competitive access carriers, enhanced SMR providers and any other service providers using telephone numbers.

As Vanguard described in its comments on the *Notice of Inquiry*, costs are best allocated in proportion to a provider's use of numbering resources and the easiest measure of use of numbering resources is based on how many numbers a provider requires. Comments of Vanguard, CC Dkt. 92-237, Dec. 28, 1992 at 5. It is likely that the charge per number would be modest because there are so many telephone numbers in use today. If there are 100 million telephone numbers in use today, for instance, a one cent per month charge for each telephone number would generate about \$12 million in annual revenue. In practice, more modest charges are likely to be possible because numbering administration is not that expensive.

Vanguard also suggests that any assessments for the cost of numbering administration

should be levied at the highest level possible in any company, so as to minimize the administrative burdens of collecting the fees on both the numbering administrator and on affected companies.


V. Conclusion

The Commission should persevere in its important efforts to reform the administration of telephone numbering. Telephone numbering is increasingly vital to the entire telecommunications industry and without Commission intervention the administration of telephone numbers could become a bottleneck that hinders the growth of the newest and most vulnerable sectors of the industry. As a consequence, Vanguard urges the Commission to adopt new rules that will ensure the fair and impartial administration of numbering resources. This goal can be best achieved by creating an independent, consolidated numbering administrator and a separate numbering policy body to direct the administrator's efforts. For all these reasons,

Vanguard respectfully requests that the Commission adopt rules that are consistent with the positions expressed in these comments.

Respectfully submitted,

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June 7, 1994

CERTIFICATE OF SERVICE

I, Tammi A. Foxwell, a secretary at the law firm of Dow, Lohnes & Albertson, do hereby certify that on this 7th day of June, 1994, I have had hand delivered the foregoing "COMMENTS" to the following:

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